

AMENDED IN SENATE APRIL 18, 2013

SENATE BILL

No. 306

Introduced by Senator Price
(Principal coauthor: Assembly Member Gordon)

February 15, 2013

An act to amend Sections 1000, 2530.2, 2531, 2531.75, ~~and~~ 2533, 2570.19, 2602, *and* 2607.5 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 306, as amended, Price. Healing arts: boards.

The Chiropractic Act, *enacted by an initiative measure approved by the electors on November 7, 1922, measure*, provides for the regulation and licensing of chiropractors in this state by the State Board of Chiropractic Examiners. Existing law specifies that the law governing chiropractors is found in the act.

This bill would ~~provide~~ *require* that the powers and duties of the ~~State Board of Chiropractic Examiners, board~~, as provided, ~~shall~~ be subject to review by the appropriate policy committees of the ~~Legislature~~ *Legislature*. *The bill would require that the review of the board be performed as if those these provisions were scheduled to be repealed on January 1, 2018.*

~~Existing law establishes the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board in the Department of Consumer Affairs and makes the board responsible for the licensure of speech-language pathologists, audiologists, and hearing aid dispensers. Existing law, the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act, provides for the licensure and regulation of speech-language pathologists, audiologists, and hearing~~

aid dispensers by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. The act authorizes the board to appoint an executive officer. Existing law repeals these provisions on January 1, 2014, and subjects the board to review by the Joint-Sunset Review and Committee prior to that repeal. Committee on Boards, Commissions, and Consumer Protection.

This bill would ~~instead repeal those provisions on~~ extend the operation of these provisions until January 1, 2018, and ~~would subject~~ provide that the repeal of these provisions subjects the board to review by the appropriate policy committees of the Legislature. The bill would also rename the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board as the California Speech and Hearing Board. The bill would make conforming changes.

The Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act also authorizes the board to refuse to issue, or issue subject to terms and conditions, a license on specified grounds, including, among others, securing a license by fraud or deceit.

This bill would additionally authorize the board to refuse to issue, or issue subject to terms and conditions, a license for a violation of a term or condition of a probationary order of a license issued by the board, as provided.

Existing law, the Occupational Therapy Practice Act, provides for the licensure and regulation of occupational therapists, as defined, by the California Board of Occupational Therapy ~~within the Department of Consumer Affairs~~. Existing law repeals those provisions on January 1, 2014, and subjects the board to review by the Joint-Sunset Review Committee prior to that repeal. Committee on Boards, Commissions, and Consumer Protection.

This bill would ~~instead repeal those provisions on~~ extend the operation of these provisions until January 1, 2018, ~~would subject~~ and provide that the repeal of these provisions subjects the board to review by the appropriate policy committees of the Legislature.

Existing law, the Physical Therapy Practice Act, provides for the licensure and regulation of physical therapists by the Physical Therapy Board of California. The act authorizes the board to appoint an executive officer. Existing law repeals these provisions on January 1, 2014.

This bill would extend the operation of these provisions until January 1, 2018.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1000 of the Business and Professions Code is amended to read:

1000. The law governing practitioners of chiropractic is found in an initiative act entitled “An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith,” adopted by the electors November 7, 1922. Notwithstanding any other law, the powers and duties of the State Board of Chiropractic Examiners, as set forth in this article and under the act creating the board, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter were scheduled to be repealed as of January 1, 2018.

SEC. 2. *Section 2530.2 of the Business and Professions Code is amended to read:*

2530.2. As used in this chapter, unless the context otherwise requires:

(a) “Board” means the ~~Speech-Language Pathology and Audiology and Hearing Aid Dispensers California Speech and Hearing~~ Board. As used in this chapter or any other provision of law, “~~Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board~~” or “Speech-Language Pathology and Audiology Board” shall be deemed to refer to the ~~Speech-Language Pathology and Audiology and Hearing Aid Dispensers California Speech and Hearing~~ Board or any successor.

(b) “Person” means any individual, partnership, corporation, limited liability company, or other organization or combination thereof, except that only individuals can be licensed under this chapter.

(c) A “speech-language pathologist” is a person who practices speech-language pathology.

(d) The practice of speech-language pathology means all of the following:

1 (1) The application of principles, methods, instrumental
2 procedures, and noninstrumental procedures for measurement,
3 testing, screening, evaluation, identification, prediction, and
4 counseling related to the development and disorders of speech,
5 voice, language, or swallowing.

6 (2) The application of principles and methods for preventing,
7 planning, directing, conducting, and supervising programs for
8 habilitating, rehabilitating, ameliorating, managing, or modifying
9 disorders of speech, voice, language, or swallowing in individuals
10 or groups of individuals.

11 (3) Conducting hearing screenings.

12 (4) Performing suctioning in connection with the scope of
13 practice described in paragraphs (1) and (2), after compliance with
14 a medical facility's training protocols on suctioning procedures.

15 (e) (1) Instrumental procedures referred to in subdivision (d)
16 are the use of rigid and flexible endoscopes to observe the
17 pharyngeal and laryngeal areas of the throat in order to observe,
18 collect data, and measure the parameters of communication and
19 swallowing as well as to guide communication and swallowing
20 assessment and therapy.

21 (2) Nothing in this subdivision shall be construed as a diagnosis.
22 Any observation of an abnormality shall be referred to a physician
23 and surgeon.

24 (f) A licensed speech-language pathologist shall not perform a
25 flexible fiberoptic nasendoscopic procedure unless he or she has
26 received written verification from an otolaryngologist certified by
27 the American Board of Otolaryngology that the speech-language
28 pathologist has performed a minimum of 25 flexible fiberoptic
29 nasendoscopic procedures and is competent to perform these
30 procedures. The speech-language pathologist shall have this written
31 verification on file and readily available for inspection upon request
32 by the board. A speech-language pathologist shall pass a flexible
33 fiberoptic nasendoscopic instrument only under the direct
34 authorization of an otolaryngologist certified by the American
35 Board of Otolaryngology and the supervision of a physician and
36 surgeon.

37 (g) A licensed speech-language pathologist shall only perform
38 flexible endoscopic procedures described in subdivision (e) in a
39 setting that requires the facility to have protocols for emergency

1 medical backup procedures, including a physician and surgeon or
2 other appropriate medical professionals being readily available.

3 (h) “Speech-language pathology aide” means any person
4 meeting the minimum requirements established by the board, who
5 works directly under the supervision of a speech-language
6 pathologist.

7 (i) (1) “Speech-language pathology assistant” means a person
8 who meets the academic and supervised training requirements set
9 forth by the board and who is approved by the board to assist in
10 the provision of speech-language pathology under the direction
11 and supervision of a speech-language pathologist who shall be
12 responsible for the extent, kind, and quality of the services provided
13 by the speech-language pathology assistant.

14 (2) The supervising speech-language pathologist employed or
15 contracted for by a public school may hold a valid and current
16 license issued by the board, a valid, current, and professional clear
17 clinical or rehabilitative services credential in language, speech,
18 and hearing issued by the Commission on Teacher Credentialing,
19 or other credential authorizing service in language, speech, and
20 hearing issued by the Commission on Teacher Credentialing that
21 is not issued on the basis of an emergency permit or waiver of
22 requirements. For purposes of this paragraph, a “clear” credential
23 is a credential that is not issued pursuant to a waiver or emergency
24 permit and is as otherwise defined by the Commission on Teacher
25 Credentialing. Nothing in this section referring to credentialed
26 supervising speech-language pathologists expands existing
27 exemptions from licensing pursuant to Section 2530.5.

28 (j) An “audiologist” is one who practices audiology.

29 (k) “The practice of audiology” means the application of
30 principles, methods, and procedures of measurement, testing,
31 appraisal, prediction, consultation, counseling, instruction related
32 to auditory, vestibular, and related functions and the modification
33 of communicative disorders involving speech, language, auditory
34 behavior or other aberrant behavior resulting from auditory
35 dysfunction; and the planning, directing, conducting, supervising,
36 or participating in programs of identification of auditory disorders,
37 hearing conservation, cerumen removal, aural habilitation, and
38 rehabilitation, including, hearing aid recommendation and
39 evaluation procedures including, but not limited to, specifying
40 amplification requirements and evaluation of the results thereof,

1 auditory training, and speech reading, and the selling of hearing
2 aids.

3 (l) A “dispensing audiologist” is a person who is authorized to
4 sell hearing aids pursuant to his or her audiology license.

5 (m) “Audiology aide” means any person meeting the minimum
6 requirements established by the board. An audiology aid may not
7 perform any function that constitutes the practice of audiology
8 unless he or she is under the supervision of an audiologist. The
9 board may by regulation exempt certain functions performed by
10 an industrial audiology aide from supervision provided that his or
11 her employer has established a set of procedures or protocols that
12 the aide shall follow in performing these functions.

13 (n) “Medical board” means the Medical Board of California.

14 (o) A “hearing screening” performed by a speech-language
15 pathologist means a binary puretone screening at a preset intensity
16 level for the purpose of determining if the screened individuals
17 are in need of further medical or audiological evaluation.

18 (p) “Cerumen removal” means the nonroutine removal of
19 cerumen within the cartilaginous ear canal necessary for access in
20 performance of audiological procedures that shall occur under
21 physician and surgeon supervision. Cerumen removal, as provided
22 by this section, shall only be performed by a licensed audiologist.
23 Physician and surgeon supervision shall not be construed to require
24 the physical presence of the physician, but shall include all of the
25 following:

26 (1) Collaboration on the development of written standardized
27 protocols. The protocols shall include a requirement that the
28 supervised audiologist immediately refer to an appropriate
29 physician any trauma, including skin tears, bleeding, or other
30 pathology of the ear discovered in the process of cerumen removal
31 as defined in this subdivision.

32 (2) Approval by the supervising physician of the written
33 standardized protocol.

34 (3) The supervising physician shall be within the general
35 vicinity, as provided by the physician-audiologist protocol, of the
36 supervised audiologist and available by telephone contact at the
37 time of cerumen removal.

38 (4) A licensed physician and surgeon may not simultaneously
39 supervise more than two audiologists for purposes of cerumen
40 removal.

1 ~~SEC. 2.~~

2 *SEC. 3.* Section 2531 of the Business and Professions Code is
3 amended to read:

4 2531. (a) There is in the Department of Consumer Affairs a
5 ~~Speech-Language Pathology and Audiology and Hearing Aid~~
6 ~~Dispensers~~ *the California Speech and Hearing* Board in which the
7 enforcement and administration of this chapter are vested. The
8 ~~Speech-Language Pathology and Audiology and Hearing Aid~~
9 ~~Dispensers~~ *California Speech and Hearing* Board shall consist of
10 nine members, three of whom shall be public members.

11 (b) This section shall remain in effect only until January 1, 2018,
12 and as of that date is repealed, unless a later enacted statute, that
13 is enacted before January 1, 2018, deletes or extends that date.
14 Notwithstanding any other law, the repeal of this section renders
15 the board subject to review by the appropriate policy committees
16 of the Legislature.

17 ~~SEC. 3.~~

18 *SEC. 4.* Section 2531.75 of the Business and Professions Code
19 is amended to read:

20 2531.75. (a) The board may appoint a person exempt from
21 civil service who shall be designated as an executive officer and
22 who shall exercise the powers and perform the duties delegated
23 by the board and vested in him or her by this chapter.

24 (b) This section shall remain in effect only until January 1, 2018,
25 and as of that date is repealed, unless a later enacted statute, that
26 is enacted before January 1, 2018, deletes or extends that date.

27 *SEC. 5. Section 2533 of the Business and Professions Code is*
28 *amended to read:*

29 2533. The board may refuse to issue, or issue subject to terms
30 and conditions, a license on the grounds specified in Section 480,
31 or may suspend, revoke, or impose terms and conditions upon the
32 license of any licensee for any of the following:

33 (a) Conviction of a crime substantially related to the
34 qualifications, functions, and duties of a speech-language
35 pathologist or audiologist or hearing aid dispenser, as the case may
36 be. The record of the conviction shall be conclusive evidence
37 thereof.

38 (b) Securing a license by fraud or deceit.

39 (c) (1) The use or administering to himself or herself, of any
40 controlled substance; (2) the use of any of the dangerous drugs

1 specified in Section 4022, or of alcoholic beverages, to the extent,
2 or in a manner as to be dangerous or injurious to the licensee, to
3 any other person, or to the public, or to the extent that the use
4 impairs the ability of the licensee to practice speech-language
5 pathology or audiology safely; (3) more than one misdemeanor or
6 any felony involving the use, consumption, or self-administration
7 of any of the substances referred to in this section; or (4) any
8 combination of paragraph (1), (2), or (3). The record of the
9 conviction shall be conclusive evidence of unprofessional conduct.

10 (d) Advertising in violation of Section 17500. Advertising an
11 academic degree that was not validly awarded or earned under the
12 laws of this state or the applicable jurisdiction in which it was
13 issued is deemed to constitute a violation of Section 17500.

14 (e) Committing a dishonest or fraudulent act that is substantially
15 related to the qualifications, functions, or duties of a licensee.

16 (f) Incompetence, gross negligence, or repeated negligent acts.

17 (g) Other acts that have endangered or are likely to endanger
18 the health, welfare, and safety of the public.

19 (h) Use by a hearing aid dispenser of the term “doctor” or
20 “physician” or “clinic” or “audiologist,” or any derivation thereof,
21 except as authorized by law.

22 (i) The use, or causing the use, of any advertising or promotional
23 literature in a manner that has the capacity or tendency to mislead
24 or deceive purchasers or prospective purchasers.

25 (j) Any cause that would be grounds for denial of an application
26 for a license.

27 (k) Violation of Section 1689.6 or 1793.02 of the Civil Code.

28 (l) *Violation of a term or condition of a probationary order of*
29 *a license issued by the board pursuant to Chapter 5 (commencing*
30 *with Section 11500) of Part 1 of Division 3 of Title 2 of the*
31 *Government Code.*

32 ~~SEC. 4.~~

33 *SEC. 6.* Section 2570.19 of the Business and Professions Code
34 is amended to read:

35 2570.19. (a) There is hereby created a California Board of
36 Occupational Therapy, hereafter referred to as the board. The board
37 shall enforce and administer this chapter.

38 (b) The members of the board shall consist of the following:

39 (1) Three occupational therapists who shall have practiced
40 occupational therapy for five years.

1 (2) One occupational therapy assistant who shall have assisted
2 in the practice of occupational therapy for five years.

3 (3) Three public members who shall not be licentiates of the
4 board, of any other board under this division, or of any board
5 referred to in Section 1000 or 3600.

6 (c) The Governor shall appoint the three occupational therapists
7 and one occupational therapy assistant to be members of the board.
8 The Governor, the Senate Committee on Rules, and the Speaker
9 of the Assembly shall each appoint a public member. Not more
10 than one member of the board shall be appointed from the full-time
11 faculty of any university, college, or other educational institution.

12 (d) All members shall be residents of California at the time of
13 their appointment. The occupational therapist and occupational
14 therapy assistant members shall have been engaged in rendering
15 occupational therapy services to the public, teaching, or research
16 in occupational therapy for at least five years preceding their
17 appointments.

18 (e) The public members may not be or have ever been
19 occupational therapists or occupational therapy assistants or in
20 training to become occupational therapists or occupational therapy
21 assistants. The public members may not be related to, or have a
22 household member who is, an occupational therapist or an
23 occupational therapy assistant, and may not have had, within two
24 years of the appointment, a substantial financial interest in a person
25 regulated by the board.

26 (f) The Governor shall appoint two board members for a term
27 of one year, two board members for a term of two years, and one
28 board member for a term of three years. Appointments made
29 thereafter shall be for four-year terms, but no person shall be
30 appointed to serve more than two consecutive terms. Terms shall
31 begin on the first day of the calendar year and end on the last day
32 of the calendar year or until successors are appointed, except for
33 the first appointed members who shall serve through the last
34 calendar day of the year in which they are appointed, before
35 commencing the terms prescribed by this section. Vacancies shall
36 be filled by appointment for the unexpired term. The board shall
37 annually elect one of its members as president.

38 (g) The board shall meet and hold at least one regular meeting
39 annually in the Cities of Sacramento, Los Angeles, and San
40 Francisco. The board may convene from time to time until its

1 business is concluded. Special meetings of the board may be held
2 at any time and place designated by the board.

3 (h) Notice of each meeting of the board shall be given in
4 accordance with the Bagley-Keene Open Meeting Act (Article 9
5 (commencing with Section 11120) of Chapter 1 of Part 1 of
6 Division 3 of Title 2 of the Government Code).

7 (i) Members of the board shall receive no compensation for
8 their services, but shall be entitled to reasonable travel and other
9 expenses incurred in the execution of their powers and duties in
10 accordance with Section 103.

11 (j) The appointing power shall have the power to remove any
12 member of the board from office for neglect of any duty imposed
13 by state law, for incompetency, or for unprofessional or
14 dishonorable conduct.

15 (k) This section shall remain in effect only until January 1, 2018,
16 and as of that date is repealed, unless a later enacted statute, that
17 is enacted before January 1, 2018, deletes or extends that date.
18 Notwithstanding any other law, the repeal of this section renders
19 the board subject to review by the appropriate policy committees
20 of the Legislature.

21 *SEC. 7. Section 2602 of the Business and Professions Code is*
22 *amended to read:*

23 2602. The Physical Therapy Board of California, hereafter
24 referred to as the board, shall enforce and administer this chapter.

25 This section shall remain in effect only until January 1, ~~2014,~~
26 2018, and as of that date is repealed, unless a later enacted statute,
27 that is enacted before January 1, ~~2014,~~ 2018, deletes or extends
28 that date.

29 Notwithstanding any other provision of law, the repeal of this
30 section renders the board subject to review by the appropriate
31 policy committees of the Legislature.

32 *SEC. 8. Section 2607.5 of the Business and Professions Code*
33 *is amended to read:*

34 2607.5. (a) The board may appoint a person exempt from civil
35 service who shall be designated as an executive officer and who
36 shall exercise the powers and perform the duties delegated by the
37 board and vested in him or her by this chapter.

38 (b) This section shall remain in effect only until January 1, ~~2014,~~
39 2018, and as of that date is repealed, unless a later enacted statute,

1 that is enacted before January 1, ~~2014~~, *2018*, deletes or extends
2 that date.

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